

OFFICE OF CONSUMER COUNSEL FISCAL YEAR 2009 ANNUAL REPORT

At a Glance

MARY J. HEALEY, Consumer Counsel

Established – 1975

Statutory Authority – Conn. Gen. Stat. sec. 16-2a

Central Office – Ten Franklin Square, New Britain, CT 06051

Website: www.ct.gov/occ

Average number of full-time employees – 17

Recurring operating expenses - \$ 3,073,971

Capital expenditures - \$21,565 allotted (\$1,033.25 spent)

Mission

The Office of Consumer Counsel (“OCC”) speaks for Connecticut’s utility ratepayers. The OCC was created in 1975 as an independent voice for utility customers, and as an advocate, does not directly administer programs. The OCC supports the State of Connecticut’s Results-Based Accountability process by carefully identifying our constituency and recording the quantity, delivery and quality of the services we provide utility consumers across the state [see OCC’s Scorecard at www.ct.gov/occ, which tallies the effect of OCC’s advocacy for consumers in utility proceedings in all forums]. The OCC’s mission is to advocate for consumer interests in all matters which may affect Connecticut consumers with respect to public utility companies, electric suppliers and certified telecommunications providers. Particularly in legislative and regional forums, the OCC often collaborates with others to achieve beneficial policies for consumers, including by coordinating with fellow state agencies (such as the Department of Public Utility Control (“DPUC”) and the Office of the Attorney General (“OAG”) and at times with industry participants. Successful collaborative efforts in recent years include work to promote more reasonable outcomes in regional electric power markets, broadband deployment, and improved standards for utility customer service.

Statutory Responsibility

The OCC’s statutory responsibilities include appearing and participating in any regulatory or judicial proceedings, federal or state, in which the interests of Connecticut consumers may be involved, or in which matters affecting utility services rendered or to be rendered in this state may be involved. The OCC is mandated by law to be a party to each contested case before the DPUC and shall participate in such proceedings to the extent it deems necessary. The OCC may appeal from a decision, order or authorization in any such state regulatory proceeding. In addition to representing ratepayer interests before the DPUC, the OCC participates actively in proceedings before the Federal Energy Regulatory Commission (FERC), the Federal Communications Commission (FCC), state and federal courts, and promotes the interests of ratepayers at the Connecticut legislature.

Public Service

OCC contributes to heightened public awareness of problems and issues faced by utility consumers in Connecticut, such as difficulties receiving timely, effective service and paying for high utility costs, through appearances in public forums such as DPUC hearings, court cases, and presenting legislative testimony; publishing a quarterly newsletter, maintaining current consumer-interest information on its website, serving as members on boards and committees and through public speaking. The activities of the OCC benefit the utility ratepayers of Connecticut and contribute to the creation of beneficial, forward-looking policies and laws.

Improvements/Achievements 2008-09

Over \$400 million dollars in direct savings to Connecticut ratepayers was achieved this year through OCC’s continuing advocacy in the diverse forums in which it has appeared for 34 years. Three major issues affecting ratepayers were prominent in OCC’s docket work this year:

- 1) Unsatisfactory customer service, including deficiencies among certain utilities in response time and billing inaccuracies;
- 2) Repeated attempts by companies to raise rates beyond a fair and reasonable amount; and
- 3) Energy planning and development of energy infrastructure.

Customer service issues head the list of problems OCC tackled for ratepayers:

- OCC took the lead in advocating for good customer service in telecommunications when it filed a petition asking the DPUC to enforce existing repair service standards for AT&T in Connecticut, order call center service improvements, and impose ongoing penalties if the company failed to meet regulatory standards. The DPUC's final decision in the docket reflected many of OCC's arguments, specifically that the company's out of service repair time performance merits investigation and that the company's compliance with existing Retail Service Quality Standards is necessary.
- OCC took on customer service problems in electric, gas and water companies as well, specifically issues involving billing inaccuracies. For example, the DPUC opened a docket to investigate problems raised when more than 2300 of Connecticut Light and Power's ("CL&P") residential and commercial customers did not receive bills for usage in the December, 2007 billing cycle as a result of an internal billing system software failure. The DPUC agreed with OCC's argument that actions CL&P took in response to the problem were not reasonable or prudent, that CL&P's oversight of the error was inadequate, and CL&P's internal and external communications regarding the problem were not timely. The company was also ordered to investigate its billing system and monitoring protocols.

Companies' attempts to increase rates beyond a fair and reasonable amount presented the second challenge this year for ratepayers:

- Connecticut Natural Gas (CNG) and Southern Connecticut Gas (SCG) requested rate increases of \$7.4 million and \$34.2 million respectively. OCC argued that instead of approving a rate increase for CNG, the DPUC should decrease CNG's rates by \$19.2 million. The DPUC agreed with many of OCC's recommendations and instituted a rate decrease of more than \$16.2 million for CNG customers. The DPUC lowered CNG's allowed return on equity to 9.31%, and also agreed with OCC in rejecting CNG's proposed rate "decoupling" mechanism, which would have shifted a great deal of the company's business risks onto ratepayers.
- OCC opposed SCG's revised rate increase of \$34.2 million, recommending to the DPUC instead that they deny the proposed increase and instead decrease SCG's rates. The DPUC agreed, and reduced SCG's rates by over \$12.4 million and lowered SCG's return on equity to 9.26% based in part on OCC's testimony. As in the CNG matter, the DPUC also rejected SCG's proposed rate decoupling mechanism, as OCC advocated. Both CNG and SCG have filed court appeals to the DPUC final decisions, and OCC as a named defendant will participate actively in the appeals on behalf of ratepayers.
- In the electric utilities arena, most of OCC's recommendations were accepted by the DPUC in its final decision to scale back the United Illuminating Company's (UI) request for a distribution rate increase to cover the years 2009 and 2010. This docket attracted considerable attention, given the deepening economic recession in our state and the turmoil in the nation's financial markets. OCC's advocacy on behalf of UI's customers proved successful, as the DPUC lowered UI's allowed profit level (ROE) by one percent, to 8.75%. OCC continues to monitor several aspects of UI's new rates, namely its capital spending levels and the viability of its project for a new headquarters facility.
- OCC and the Connecticut Water Company ("CWC") entered into a Settlement Agreement in April, 2009 that would result in a temporary rate decrease of approximately \$590,000, or 1.84%, if approved by the DPUC. The DPUC did approve the rate decrease in June, and CWC customers will receive a temporary surcredit on bills from July 1st to December 31, 2009. The rate reduction will be accomplished through a reduction and equalization of depreciation rates amongst CWC's various operating divisions. These depreciation rate changes will also have the impact of decreasing future rates, since these new depreciation rates will remain in effect until CWC is ordered by the DPUC to perform a new depreciation study. Also, as part of the Settlement Agreement, the parties have agreed

to an extension of the rate stay out period, previously approved in Docket No. 06-07-08 in January 2007. As a result of the settlement, CWC will not request a general rate increase effective prior to July 2010.

OCC participated actively in major state energy planning and infrastructure development efforts, which include:

- An electric docket completed during this fiscal year which approved long-term contracts for three new power plants;
- The State's first two integrated electric resource planning dockets since electric restructuring;
- A Connecticut Siting Council docket involving new electric transmission lines;
- Dockets involving development of renewable energy through long-term contracts;
- Dockets involving natural gas infrastructure, including facilities for winter peak needs; and
- Numerous regional meetings involving electric resource development.

On the legislative front, OCC worked on a variety of topics representing ratepayer interests, joining advocacy efforts with energy stakeholders and grassroots consumer groups by testifying at public hearings before the Energy & Technology Committee and providing technical information to legislators upon request to further their understanding of utility issues. However, significant utility-related legislation was not enacted this year, presumably because of the focus on the budget.

In the legal arena for Fiscal Year 2009:

- OCC was successful in obtaining a settlement agreement with AT&T in the VRAD case (Video-Ready Assistive Devices), which had unfolded over more than two years in the DPUC hearing rooms and at state superior court. This case resulted from AT&T's repeated failures to comply with a state law requiring it to provide prior notice and obtain consent from residential property owners and municipalities prior to installing thousands of half-ton, electrified, giant green steel boxes bolted to poles on properties across Connecticut for providing its video services (U-Verse). As part of the settlement, AT&T must obtain consent from individual property owners and notify municipalities of exact locations for proposed VRAD cabinet installations. Property owners who object to the installation and cannot resolve the issue with the company have the right under a 160 year old state law to petition the DPUC to investigate the problem. Further, AT&T must now file quarterly reports with the DPUC detailing, among other things, a description of actions taken by the company to resolve any disputes. OCC is confident the settlement fully satisfies the interests of consumers in securing their full rights under state law.
- In January 2009, the DPUC concluded an "incentive fee" case relating to CL&P and UI, the state's two regulated electric companies (Dockets 03-07-01RE03 & 03-07-15RE02). This joint docket concerned whether either company had earned an incentive for obtaining so-called transitional standard offer power for customers during 2004. At issue was implementation of an unusual statute which potentially could have cost electric ratepayers over \$21 million. During the four years this joint docket was open, the DPUC issued another decision (March 2006; Docket 05-09-08), agreeing with OCC that such procurement fees generally are unjustified. In its recent decision, the DPUC followed OCC's consistent advocacy and denied both companies this unwarranted fee. Both UI and CL&P appealed that DPUC decision to court, and those cases now have been briefed. OCC has strongly defended the recent DPUC decision.
- The OCC is scheduled to present oral argument this November at a hearing before the US Court of Appeals for the Second Circuit in New York City in *OCC v. AT&T*, a longstanding case concerning AT&T's ongoing attempt to avoid the federal regulatory requirements imposed on all cable operators by asserting that "U-verse," its video service, is not a "cable service" and that therefore it is not a "cable operator". The OCC opposes this claim because it would exempt AT&T from the full range of requirements imposed on cable operators, including the requirement to obtain a franchise prior to commencing service; limitations on advertising in children's programming; political broadcasting rules; protections of subscriber privacy; the obligation to carry local broadcast signals;

and various other mandates. The OCC has thus been seeking the authority of the federal courts to require AT&T to abide by federal consumer protections. The OCC is confident that the 2nd Circuit will decide in favor of the OCC's claim to uphold consumer protections in this case.

OCC continued its participation this year in utility-related organizations, committees and boards, where it serves as a respected voice for ratepayers among state, regional and national policymakers and industry professionals:

- Appointed by statute in 2005 as a member of the Low Income Energy Advisory Board (LIEAB), OCC participated once again this year, analyzing utility policies and procedures on arrearage forgiveness and working to ensure that community action agencies have the necessary procedures in place to process applications for energy assistance. OCC took part in LIEAB's annual recommendations to the Office of Policy and Management (OPM) and the Department of Social Services (DSS) on energy issues which impact low-income ratepayers.
- OCC is a charter member of the Energy Conservation Management Board (ECMB), an appointed group of 14 members which oversees the \$95 million (for 2008) Connecticut Energy Efficiency Fund (CEEF); the fund expects to realize expenditures of \$125 million in 2009. The ECMB was created by state law in 1998 and is charged with advising and assisting Connecticut's two electric and three natural gas distribution companies and the Connecticut Municipal Electric Energy Cooperative (CMEEC) with the development, implementation and oversight of a comprehensive plan for cost-effective energy conservation and load management (C&LM) programs and market transformation initiatives. An OCC staff member has served as Chair for two terms and currently serves as Vice-Chairperson. Accomplishments this year include:
 - CEEF programs provided annual energy savings of approximately 366 million kWh in 2008
 - over 11,200 low-income residential customers received weatherization services at no cost to them
 - CEEF programs created estimated peak demand reduction of over 494,000 kilowatts, easing stress on the electric grid for our state.

Funding for programs comes mainly from the 3 mill electric charge which accounts for approximately two thirds (67%) of the estimated 2010 budget; other sources of revenue are the "Forward Capacity Market" (3%), Regional Greenhouse Gas Initiative (17%) ("RGGI"), "Stimulus Package", (4.5%), Demand Resources (6%) and Class Three Renewables (2.5%). Additional information about the ECMB and CEEF may be found at: <http://www.ctsavesenergy.org>.

- OCC is now a member of the Connecticut Clean Energy Fund ("CCEF") board. The board oversees the \$20 million plus ratepayer funded budget. The primary responsibility of the fund is to promote the steady growth of renewable resources in the state, including investments in solar, fuel cells, biomass, low impact hydro, land fill gas, wave and wind technologies. The long term goals of the fund are to lower consumer energy bills, lower peak demand, improve reliability and security, and increase energy independence. Additional information on the CCEF may be found at: <http://www.ctcleanenergy.com>.
- OCC continues its active membership in the Connecticut Energy Advisory Board (CEAB), with the Consumer Counsel re-elected Vice-Chairman for 2009. CEAB's major initiatives for this year included reviewing and modifying the Integrated Resource Plan (IRP) submitted to CEAB by CL&P and UI, as well as beginning work on the 2010 plan. The IRP plan develops with stakeholder input the state's energy and capacity resource assessment to procure energy resources in a cost-efficient and environmentally responsible manner. The CEAB Plan is then subject to review and approval by the DPUC. For more details on CEAB's accomplishments this year, visit their website at: <http://www.ctenergy.org>.
- The Consumer Counsel serves as Vice-President of the National Association of State Utility Consumer Advocates (NASUCA), and she and several members of the OCC staff are actively engaged with this national group of ratepayer advocates who appear and/or provide testimony before the FERC, the FCC and the U.S. Congress, providing the ratepayer perspective on energy policies of national import.

- The OCC is an active participant in both the Independent System Operator of New England (“ISO-NE”) and the New England Power Pool (NEPOOL). The OCC sits on the NEPOOL Participants Committee (“NPC”), as well the ISO-NE/NEPOOL associated committees such as, the Demand Response Working Group, Budget and Finance, Transmission, and Marketing. The OCC advocates a variety of Connecticut ratepayer concerns among these various groups and committees.
- The OCC has continued its focus on the issues presented by broadband access and usage rates in Connecticut, especially in light of the millions of dollars potentially available through the federal broadband stimulus funding program. In addition to serving as one of 10 voting members representing both the private and public sectors of the statutory Connecticut Broadband Internet Coordinating Council, OCC has been appointed as a member of the Connecticut Recovery Act Broadband Review Panel. The Panel was formed by Governor Rell through Executive Order No. 32 (August 2009) to gather a group of state and municipal representatives to coordinate the state’s plan for addressing this statewide public policy concern with effective solutions that can be replicated and sustained to improve future projects.
- OCC remains a voting member of the North American Numbering Council (NANC), a Federal Advisory Committee created in 1995 to advise the FCC on numbering issues and to make recommendations that foster efficient and impartial number administration. This position has proved especially timely since the OCC has supported the statewide implementation of 10-digit dialing in the two existing 203 and 860 area codes simultaneously with the implementation of the 475 area code overlay in the 203 numbering plan area (NPA). The OCC will be involved in the industry sponsored 475 area code overlay education and implementation plan to assure a smooth transition to the new area code, with minimal residential and business customer disruption. Based on detailed analysis concerning the sufficiency of numbers supply available in the 860 NPA, the OCC does not support the implementation of the 959 area code overlay in the 860 NPA at this time, though that overlay will probably become necessary in the next few years.

Information Reported as Required by State Statute

The Office of Consumer Counsel’s Affirmative Action Biennial Plan was approved by the Commission on Human Rights and Opportunities on May 8, 2008. OCC continues its strong commitment to the policies, principles and practices that promote equal employment opportunity in contracts, programs and agency policies, including affirmative action. The agency has developed and implemented hiring and contracting goals to maintain its diversified work force. All OCC policies and procedures are consistent with state and federal reporting procedures.